

## **REMARKS**

Reconsideration and withdrawal of the examiners rejections under 35 U.S.C. §103 is respectfully requested in view of the following remarks.

### **Priority**

The examiner has made acknowledgement of applicant's claim for foreign priority based on an application filed in Europe on August 27, 2002. The examiner notes, however, that applicant has not filed a certified copy of the EP 02078527 application as required by 35 U.S.C. 119(b). In response, Applicants respectfully call the examiner's attention to the fact that the referenced claim for foreign priority was mailed on 18 March 2004, and herewith attach a copy for the examiner's convenience.

### **35 USC §103**

The examiner has rejected claims 1-20 under 35 U.S.C. 103(a) as being unpatentable over Chromecek (US Patent No. 3,966,902).

The examiner asserts the following: Chromecek teaches compositions comprising an effective amount of an active ingredient such as a cosmetic agent such as an antiperspirant, a bath oil, a fragrance, sunscreen, soap, hair, dye, tanning agent, etc., in a carrier comprising a polymer comprising a monomer having hydrophilic functional groups such as hydroxyl, carboxyl, or amino groups and containing aluminum, zinc, or zirconium bound in complex form (see abstract). In Example 16, Chromecek teaches the preparation of a powder comprising fragrant oil as follows: 50 ml of a solution of 2-hydroxyethyl methacrylate complex polymer prepared according to Example 6 and containing 0.385%  $\text{Al}_2\text{O}_3$  and having a solids content of 0.170 g/ml were mixed with 8.4 g of rose oil. The clear solution which was thereby formed could be deposited out in the form of a dry film which did not exhibit syneresis of the fragrant oil. The film could be used as such or after grinding could be used in the form of a powder. A long lasting fragrance releasing effect was obtained in either case. In place of the above-named polymer, copolymers prepared according to Examples 7,8,9, 10, 11 and 12 could be advantageously used for entrapping the rose oil as well as other combinations of perfumes,

colognes, floral fragrances, odor counteractants and the like, as well as flavors such as anise, peppermint, vanilla, rum and the like (see col. 13, lines 25-44). Chromecek also teaches that the complex polymer and active agent can be formulated as solutions, sprays, powders and the like (see col. 8, lines 18-25). Chromecek, however, fails to specifically disclose a process for preparing perfume film chips wherein the film is formed containing inclusions of perfume particles, i.e., step (a) of present claim 1.

The examiner further asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the step of adding perfume, e.g. rose oil, to the hydroxyethyl methacrylate complex polymer having  $Al_2O_3$  as in Example 16 of Chromecek, to be equivalent to step (a) of present claim 1 because the polymer solution of Chromecek have a solids content of 0.170 g/ml in the 50 ml solution, hence during mixing, the solids would have absorbed the perfume thus making them into particles prior to filming. Applicants respectfully traverse this rejection.

Chromecek, specifically example 16 makes use of a solution of 2-hydroxyethyl methacrylate complex polymer that is prepared according to example 6 of Chromecek. To a solution of this polymer, rose oil is added. The Examiner puts forward the hypothesis that during drying of the film solid aluminium oxide would form. It is difficult to see the factual basis on which the Examiner bases this hypothesis. In example 6 the polymer appears to be soluble unless precipitated in ether however this is contradicted in column 6 (paragraph from lines 45-65) where it is stated quite explicitly that the 2-hydroxyethyl methacrylate complex polymer is both water-insoluble and remarkably stable to loss of aluminium.

The Examiners contention that the solid aluminium oxide would form with ease appears therefore to be in direct contradiction to the teaching of Chromecek and is not supported from the citation. It appears that the reference of aluminium oxide in Chromacek is a reference to the recovery of aluminium for analytical purposes as aluminium oxide (for example by adding ammonia to a salt to form the hydroxide and then heating to decompose this to the oxide).

If the examiner considers the polymer to be equivalent to the 'water-reactive material' in step (a) of the instant claims, then no perfume particles are included prior to the start of the drying step (b). Moreover, it is difficult for Applicants to see how the polymer can even be considered in this equivalence as Chromecek states quite clearly that it is water insoluble (see

e.g. col. 4 lines 12-13 ) and therefore 'water-unreactive' would be a better description of it based on the teaching of Chromecek.

#### **Other Prior Art**

The examiner has noted other prior art made of record and not relied upon that is considered pertinent to applicant's disclosure, asserting that the references are considered cumulative to or less material than those discussed above. Applicant's respectfully assert that this other prior art does not remedy the differences of Chromecek with respect to disclosing or suggesting the invention as claimed.

#### **CONCLUSION**

In light of the above remarks, applicants submit that the claims now pending in the present application are in condition for allowance. Reconsideration and allowance of the application is respectfully requested.

If a telephone interview would facilitate prosecution of the application, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,



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